



COUNTY OF LOS ANGELES

CLAIMS BOARD

500 WEST TEMPLE STREET

LOS ANGELES, CALIFORNIA 90012

MEMBERS OF THE BOARD

January 5, 2004

Maria M. Oms
Auditor-Controller
Lloyd W. Pellman
Office of the County Counsel
Rocky Armfield
Chief Administrative Office

Honorable Board of Supervisors
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Re: **Kathy Raymundo v. County of Los Angeles**
Los Angeles Superior Court Case No. BC 246 327

Dear Supervisors:

The Claims Board recommends that:

1. The Board authorize settlement of the above-entitled action in the amount of \$254,000.00.
2. The Auditor-Controller be directed to draw a warrant to implement this settlement from the Department of Mental Health.

Enclosed is the settlement request and a summary of the facts of the case.

The Corrective Action Report is being transmitted to you under separate cover by the Department of Mental Health.

Return the executed, adopted copy to Frances Lunetta, Suite 648 Kenneth Hahn Hall of Administration, Extension 4-1754.

Very truly yours,

Maria M. Oms, Chairperson
Los Angeles County Claims Board

MMO/fsl

Enclosures

MEMORANDUM

December 23, 2003

TO: LOS ANGELES COUNTY CLAIMS BOARD

FROM: GEORGE E. PETERSON, Esq.
Bonne, Bridges, Mueller, O'Keefe & Nichols

OWEN L. GALLAGHER
Principal Deputy County Counsel

RE: Kathy Raymundo v. County of Los Angeles
Los Angeles Superior Court Case No. BC246327

DATE OF
INCIDENT: July 1994, through March 1999

AUTHORITY
REQUESTED: \$254,000

COUNTY
DEPARTMENT: DEPARTMENT OF MENTAL HEALTH

CLAIMS BOARD ACTION:

☐

Approve

☐

Disapprove

☐

Recommend to Board of
Supervisors for Approval

_____, Chief Administrative Office
ROCKY A. ARMFIELD

_____, County Counsel
LLOYD W. PELLMAN

_____, Auditor-Controller
MARIA M. OMS

on _____, 2004

SUMMARY

This is a recommendation to settle for \$254,000 the sexual harassment lawsuit covering the period July 1994, through March 1999, brought by Kathy Raymundo, a Senior Secretary III assigned to the Mental Health Commission at the Department of Mental Health.

LEGAL PRINCIPLES

The County is strictly liable for a supervisor's sexual harassment. The County may also be held liable for harassment where the harassment is sufficiently pervasive so as to alter an employee's environment and create an abusive working environment (hostile work environment). In addition, the County may be liable for harassment and for a hostile work environment where an agent or supervisor of the County knows or should know of the offensive conduct and fails to take immediate and appropriate corrective action.

SUMMARY OF FACTS

In April 1990, Kathy Raymundo began working for the Department of Mental Health as a Word Processor I. In September 1993, she was promoted to a Senior Secretary III, and in June 1994, began working as the Executive Secretary for the Mental Health Commission.

Kathy Raymundo alleges that from July 1994, through March 1999, the Chairperson of the Mental Health Commission would continually make suggestive comments to her about her clothes, hair, shoes, stockings, and panty hose, while leering at portions of her anatomy. She further alleges that the Chairperson would repeatedly touch her arms, stroke her hair, rub her back, and attempt to hold her hand. Kathy Raymundo did not report the comments, leering, and physical touching by the Chairperson to her supervisor for fear that she might lose her job.

Kathy Raymundo's supervisor, the Executive Assistant to the Mental Health Commission, alleges that from July 1994, through March 1999, she personally observed the Chairperson of the Mental Health Commission physically touching Kathy Raymundo and making sexually suggestive remarks to her. Although the Executive Assistant believed that the remarks made by the Chairperson were inappropriate, and although the Executive Assistant believed that Kathy Raymundo was offended by the remarks and the physical touching, the Executive Assistant did not discuss the Chairperson's comments and actions with Kathy Raymundo. The Executive Assistant alleges that she took no action to report the Chairperson's comments and actions because she feared that she and Kathy Raymundo might lose their jobs. Although the Chairperson of the Commission is not a County employee, and has no authority to hire or discharge a County employee, both the Executive Secretary and Executive Assistant of the Mental Health Commission reported to the Chairperson, who reviewed their daily work, and approved their annual performance evaluations.

In March 1999, the Executive Assistant met with Kathy Raymundo and recommended that Kathy Raymundo agree to file a formal complaint alleging sexual harassment against the Chairperson of the Mental Health Commission. On March 29, 1999, Kathy Raymundo filed a formal complaint.

The Chairperson of the Mental Health Commission admits that from July 1994, through March 1999, he often made comments to Kathy Raymundo regarding her clothing, and often physically touched her. However, the Chairperson denies that his comments and physical touching were intended to have a sexual connotation.

By February 2001, a new Chairperson had been appointed, and the former Chairperson no longer served as a member of the Mental Health Commission.

DAMAGES

If this matter proceeds to trial, the claimant will likely seek the following:

Kathy Raymundo,	
Loss of Future Earnings	\$1,729,578
Emotional Distress	\$ 400,000
Civil Rights Attorneys Fees	\$ <u>250,000</u>
TOTAL	\$2,379,578

The proposed settlement includes:

Kathy Raymundo,	
Cash Settlement	<u>\$254,000</u>
TOTAL	\$254,000

STATUS OF CASE

The current trial date has been vacated pending approval of this settlement.

Expenses incurred by the County of Los Angeles in the defense of this case through December 1, 2003, are attorneys fees of \$170,910.20 and \$63,695.78 in costs.

This matter involved complex legal issues involving allegations of sexual harassment, hostile work environment, discrimination based on national origin, discrimination based on gender, as well as the potential liability of the County for the acts of non-County volunteers serving on a County commission. Kathy Raymundo also alleged that the acts of the Chairperson aggravated a chronic inflammatory disease affecting many systems of the body (systemic lupus erythematosus [SLE]), and that the County and the Chairperson further discriminated against her

based on her physical disability, which the County strongly disputed. In addition to the normal discovery in such matters, it was necessary to interview in excess of 30 employee witnesses, and to take 18 depositions, along with the hiring of medical experts to address Kathy Raymundo's claims of an aggravation of her SLE. Kathy Raymundo's settlement demand began at \$900,000, and was reduced to \$750,000 close to trial. Due to the inability of the parties to reach a reasonable settlement amount until the date on which the trial was to start, it was necessary for the County to be completely prepared for trial, including all motions, opposition to motions, exhibits, jury instructions, and witness preparation.

The total cost to the County of Los Angeles, as a result of this settlement, is as follows:

Indemnity (Settlement Amount)	\$254,000.00
County Attorneys Fees and Costs	<u>\$234,605.98</u>
TOTAL	\$488,605.98

EVALUATION

Under State law, an employer is strictly liable for a supervisor's sexual harassment. In addition, an employer may be held liable for harassment where the harassment is sufficiently pervasive so as to alter the employee's environment and create an abusive working environment (hostile work environment). Although the Chairperson of the Mental Health Commission is not a County employee, we believe that sufficient facts exist from which a jury could conclude that the Chairperson was an agent of the County, and that the County would be strictly liable for his actions. In addition, we believe that a jury may conclude that during the time that Kathy Raymundo was employed as the Executive Secretary for the Mental Health Commission, a hostile work environment existed due to the comments and actions of the Chairperson.

The County may be liable for sexual harassment and for a hostile work environment where a supervisor knows or should have known of the offensive conduct and fails to take immediate and appropriate corrective action. Knowledge on the part of Kathy Raymundo's supervisor of the offensive conduct by the Chairperson of the Mental Health Commission, and the failure of Kathy Raymundo's supervisor to take immediate and appropriate corrective action, would subject the County to liability in this matter. Under state law, if Kathy Raymundo were to proceed to trial and receive an award of damages, she would be entitled to attorney's fees. We believe that the jury award of damages and the attorneys fees award will far exceed the recommended settlement amount.

We join with our private counsel, Bonne, Bridges, Mueller, O'Keefe & Nichols, and our claims administrator, Octagon Risk Services, Inc., in recommending settlement in the amount of \$254,000.

The Department of Mental Health concurs in this settlement.